

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOJO EJONGA-DEOGRACIAS,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS,
LEON N. KERSHAW, CAROLEE ROOP,

Defendants.

CASE NO. C15-5784 RJB-KLS

ORDER DENYING PLAINTIFF'S
MOTION FOR THE APPOINTMENT
OF COUNSEL

Plaintiff Jojo Ejonga-Deogracias moves for the appointment of counsel. Dkt. 12. Having carefully reviewed the motion and balance of the record, the Court finds that the motion should be denied.

DISCUSSION

No constitutional right exists to appointed counsel in a § 1983 action. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). *See also United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995) (“[a]ppointment of counsel under this section is discretionary, not mandatory.”) However, in “exceptional circumstances,” a district court may appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28 U.S.C. § 1915(d)). *Rand v. Roland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *overruled on other*

1 grounds, 154 F.3d 952 (9th Cir. 1998) (emphasis supplied.) To decide whether exceptional
2 circumstances exist, the court must evaluate both “the likelihood of success on the merits [and]
3 the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal
4 issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (quoting
5 *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts that show he
6 has an insufficient grasp of his case or the legal issue involved and an inadequate ability to
7 articulate the factual basis of his claim. *Agyeman v. Corrections Corp. of America*, 390 F.3d
8 1101, 1103 (9th Cir. 2004).

9 Mr. Ejonga-Deogracias requests the appointment of counsel because he cannot afford to
10 hire counsel, he is proceeding *in forma pauperis*, he has limited knowledge of the law and
11 limited access to a law library, the issues are complex, and counsel will be better able to present
12 evidence and cross examine witnesses. Dkt. 12. This case does not involve complex facts or law
13 and Mr. Ejonga-Deogracias has shown an ability to articulate his claims in a clear fashion
14 understandable to the Court. In addition, Mr. Ejonga-Deogracias does not show that he is likely
15 to succeed on the merits of his case.

16 Accordingly, it is **ORDERED**:

17 (1) Plaintiff’s motion for counsel (Dkt. 12) is **DENIED**.

18 (2) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.

19 Dated this 21st day of December, 2015.

20
21 

22 Karen L. Strombom
23 United States Magistrate Judge